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In re Application of
FARROW et al.
Application No.: 09/868,533
PCT No.: PCT/EP99/07303
Int. Filing Date: 05 October 1999
Priority Date: 23 December 1998
Attorney Docket No.: PG3600USW
For: MEMBER OF THE TNF LIGAND FAMILY

DECISION ON
PETITION UNDER 37 CFR 1.181

This is a decision on applicant's 18 March 2004 "Communication", requesting acceptance of declarations originally filed on 21 September 2001, in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 19 June 2001, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 23 July 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), a surcharge for filing the oath or declaration after the thirty month period and an English translation of the international application, was required.

On 21 September 2001, applicant filed executed declarations, in compliance with 37 CFR 1.497(a) & (b) and the \$130 surcharge for filing the declaration after the 30 month period.

On 27 February 2004, a Notification of Abandonment was mailed to applicant indicating that no reply was received in response to the 23 July 2001 Notification of Missing Requirements.

On 18 March 2004, applicant filed a copy of an itemized postcard bearing a USPTO mail room date-stamped of 21 September 2001 indicating that executed declaration and surcharge were deposited with the USPTO on 21 September 2001.

DISCUSSION

A review of the application file reveals that the original declarations filed on 21 September 2001 are located in the application file. A review of the application file also reveals that an English translation of the international application is not necessary, as indicated in the Notification of Missing Requirements, as the international application was published in English.

A review of the declarations filed on 21 September 2001 indicates that the declarations identify each inventor, and state the residency, citizenship and mailing address of each inventor and thus, is in compliance with 37 CFR 1.497(a) & (b) and acceptable. A review of the finance records for 09/858,533 indicates that the \$130 surcharge for filing the declaration after the thirty month period was paid on 21 September 2001.

CONCLUSION

The petition under 37 CFR 1.181 is **MOOT**. The declarations submitted on 21 September 2001 are acceptable and meet the requirements of 37 CFR 1.497(a) and (b).

The 27 February 2004 Notification of Abandonment is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **21 September 2001**.



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